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Ontario



Ministry of
Community and
Social Services

*The Child and Family
Services Act
and
Ontario Police Officers*

What does it mean ?



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What is the Child and Family Services Act ?

Some years ago, the Ontario government decided it needed to streamline and consolidate all the statutes and regulations encompassing services for children under the Ministry of Community and Social Services, except the Day Nurseries Act. After more than 150 community meetings across the province and weeks of hearings by a committee of the legislature, a single new bill was passed. The Child and Family Services Act runs 177 pages.

Does it have a big impact on the way police officers do their jobs ?

The new Act has a significant impact on anyone who deals professionally with children on a regular basis. But as police officers become familiar with the new Act, they'll discover very few changes in procedure are required.

There may be an adjustment necessary for some police officers in terms of their approach. One of the Act's key principles is that those dealing with children should at all times use the least restrictive or disruptive course of action. Another is that children are individuals with the same rights as the rest of us.

Are police officers given any special recognition in the Act ?

Yes. The Act recognizes that police are at the very front line of responsibility for ensuring the safety and well being of children. As such, police officers in many instances are given the same powers as a class of persons designated as "Child Protection Workers."

Most often, the Act refers to police as "peace officers" with responsibilities for children in trouble. They can also be called on to assist in transporting certain children to secure treatment facilities.

Police officers continue to have special responsibilities in dealing with children who may be "in need of protection."

How does the Act define a child “in need of protection” ?

The Act sets out more clearly the specific harms that a child may face than did the Child Welfare Act it replaces. These new provisions should be of great assistance to police officers in deciding when to intervene in a situation.

The new definition of a child in need of protection includes children who are suffering from physical, sexual, or emotional harm, or who are at substantial risk of suffering such harms. The requirement that the risk must be “substantial” means that it must be a real risk or an actual risk, that it is greater than the risks faced by everyone in everyday life. In addition, children who require medical treatment, those who have been abandoned, or those who are under-12 offenders are also deemed to be children in need of protection. There is also specific authority to apprehend a child who violates curfew provisions, discussed later.

The paramount objective of the legislation, as stated in the principles contained in the Act, is the promotion of the best interests, protection and well-being of children. It is therefore intended that a broad view be taken of the grounds under which a child may be in need of protection.

What options do police officers have when they become involved with a child in need of protection ?

In some cases, police officers can handle the situation by returning the child to the parents or person in charge. Police officers also continue to have the authority to apprehend children who may be in need of protection.

It is not necessary for a police officer to be certain that a child fits within the definition of a child in need of protection in order to intervene. It is simply necessary that the officer believes on *reasonable and probable grounds* that the child is in need

of protection. Also, the Act gives police officers a new, specific protection from civic liability for action taken in apprehending children. This protection, combined with the Act's paramount objective of protecting children, provides a clear basis for police officers to err on the side of intervention when they are in doubt.

In these circumstances, children may be taken to a place of safety, which includes hospitals, group homes and foster homes, as designated under part III of the Act. In some urgent situations, a police officer may ask the administrator of a secure treatment facility to admit a child on an emergency basis.

Police officers often deal with children who may be breaking the law. What does the Act say about this ?

Under the Young Offenders Act, children aged 12 and over can be charged and convicted of a criminal offence. The Child and Family Services Act continues provisions contained in the Young Offenders Implementation Act, 1984, for treating trouble-makers younger than 12.

A police officer who believes on reasonable and probable grounds that a child under 12 has committed an act which would be considered a criminal offence if the child were 12 or older, can apprehend the child without a warrant. The officer may enter premises where he believes the child to be, without a warrant, and may search for and remove the child, using force if necessary.

Once the child is in custody, the officer's responsibility is to return the child to the parents or the person in charge as soon as possible. If the child is "in need of protection," the officer should take the child to a place of safety.

Are young offenders covered by the Act?

Yes. Part IV of the Act sets out the services and programs for children aged 12 to 15 who commit offences under the Criminal Code or Provincial Offences Act. It also provides guidelines for temporary detention and custody.

How should police officers respond to the escape of a young offender from custody?

The federal Young Offenders Act allows a young person who is arrested or detained to be kept in a place of temporary detention. If that person is found guilty, the court may commit the individual to a place of open or secure custody. If a child is absent from any one of these places without the consent of the person in charge, police officers may apprehend the child without a warrant. Officers should take the youngster to a place of temporary detention, arrange for the child to be

returned to the place from which they are absent, or return the young person to the original place of detention.

Does the Act contain measures which allow police officers to intervene when children are “hanging around” and staying out late ?

Yes. The Act sets out specific responsibilities for parents or those in charge of children less than 16 years of age. It says these children cannot be permitted to loiter in a public place, or to be in a place of public entertainment without a responsible person over age 18, appointed by the person in charge, between the hours of midnight and 6:00 a.m.

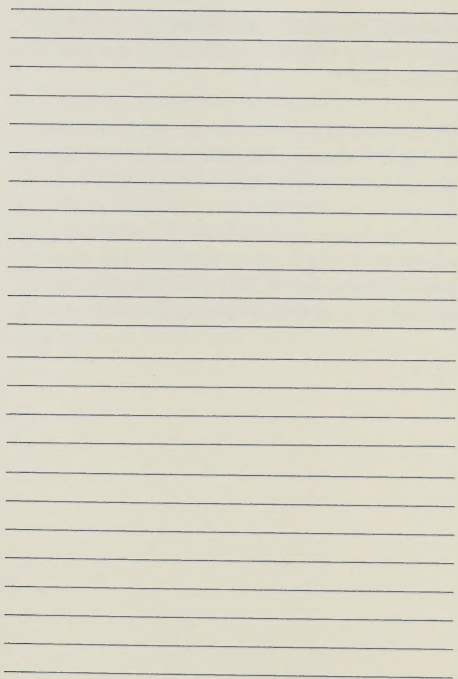
Police officers can apprehend children who are not accompanied by a responsible adult during these times without a warrant and should return them to their parents. If this is not possible, they may be taken to a place of safety.

What about runaways or missing children ?

In the absence of any further evidence, there is a presumption that a runaway or missing child under sixteen years of age is at substantial risk of physical, sexual or emotional harm and should be apprehended. This is based on the definition of a child in need of protection, the police officer's apprehension authority discussed earlier, and the Act's paramount objective of protecting children.

Finally, are there other responsibilities police officers should be aware of in the Act ?

One important one. The Act continues to recognize that police officers have a special obligation in the protection of children. Police have a professional duty to contact a children's aid society if they have reasonable grounds to suspect that a child they've come in contact with is suffering from abuse, or is at risk of being abused.





Ontario

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